



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,524	09/08/2003	Daryl S. Meredith	TN-3481	9167

7590 02/09/2006

Adan Ayala, Esq.
Black & Decker Inc.
TW-199
701 E. Joppa Road
Towson, MD 21286

EXAMINER

DEXTER, CLARK F

ART UNIT	PAPER NUMBER
----------	--------------

3724

DATE MAILED: 02/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/657,524	Applicant(s) MEREDITH, DARYL S.	
	Examiner Clark F. Dexter	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) 2-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 6-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 October 2005 is/are: a) ☒ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed on October 12, 2005 has been entered.

Drawings

2. The drawings were received on October 12, 2005. These drawings are acceptable.
3. The drawings are objected to because of the following informalities:

In Figures 1 and 2, numeral 20 is used to represent two different features, and it is suggested to change the uppermost occurrence (representing the motor) to --25-- or the like.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Art Unit: 3724

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Abstract

4. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

5. The abstract of the disclosure is objected to because it is too long. Appropriate correction is required. See MPEP § 608.01(b).

Specification

6. The disclosure is objected to because of the following informalities:

In paragraph 0003, lines 5 (twice) and 7, numeral 20 is later used (e.g., in paragraph 0004) to represent a different feature which is improper, and it is suggested to change these occurrences to --25-- or the like; in line 6, --guard-- is missing after "lower blade". Appropriate correction is required.

Claim Objections

7. Claims 1 and 6-9 are objected to because of the following informalities:

In claim 1, lines 5-6, the recitation inserted therein appears to be improper since the invention is being positively defined in terms of the workpiece which is not part of the claimed invention, and it is suggested to change "where the blade does not engage the workpiece" to --for not engaging the workpiece--, and to change "where the blade engages the workpiece" to --for engaging the workpiece-- or the like; in lines 9-10 and 12, the recitations inserted therein appear to be improper since structure of the claimed invention is being positively defined in terms of the workpiece which is not part of the claimed invention, and there is no clear indication of the workpiece configuration intended to meet the claimed limitations (that is, depending on the shape/configuration of the workpiece the limitations may be considered to have different scope).

Appropriate correction is required.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3724

9. Claims 1 and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by European Publication 0 752 300 (hereafter EP '300).

EP '300 discloses a saw (e.g., see Figs. 1-13 and 21) with every structural limitation of the claimed invention including:

a base (e.g., 12) for supporting a workpiece;

a saw assembly (e.g., see col. 6, line 35 - col. 7, line 1) connected to the base, the saw assembly comprising a pivot arm, an upper blade guard (e.g., 18) connected to the pivot arm, a motor (e.g., 20) attached to the upper blade guard, and a blade (e.g., 16) driven by the motor, the saw assembly being movable between an upper position where the blade does not engage the workpiece, and a lower position where the blade engages the workpiece; and

a fence assembly attached to the base, the fence assembly comprising a fixed fence fixedly (e.g., 48) attached to the base, a movable fence (e.g., 32, 34) movably connected to the fixed fence, the movable fence defining a first support plane, at least one of the fixed fence and the movable fence contacting the workpiece, and an auxiliary fence (e.g., 80) disposed behind at least one of the fixed fence and the movable fence, the auxiliary fence defining a second support plane substantially parallel to the first support plane and contacting the workpiece when the movable fence is moved. It is noted that various types of workpieces will meet this claim; for example, an irregular shaped workpiece, a stepped workpiece, a generally L-shaped workpiece or the like, that includes a portion that rests on the workpiece support surface and another portion that extends to contact portion 80. Further, it is noted that component 60 could be

Art Unit: 3724

pivoted out of the way of the workpiece so that the workpiece may contact surface 80, or it could be removed as suggested in col. 7, lines 31-32. It is emphasized that all of the above-described manipulations, including selection of workpiece configurations, can be performed without modifying the prior art device as disclosed in the prior art document, and thus are considered to be functional recitations of intended use of the prior art device.

Regarding claims 6-9, as disclosed in EP '300, the fixed fence has a support surface (e.g., at 107) that is substantially parallel to an upper surface of the base, is substantially perpendicular to first support plane; and the fixed fence has a surface (e.g., 63) which is substantially coplanar with the first support plane.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1 and 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al., pn 4,869,142.

Sato discloses a saw (e.g., see Fig. 9) with every structural limitation of the claimed invention including:

a base (e.g., 1) for supporting a workpiece;

a saw assembly connected to the base, the saw assembly comprising a pivot arm (e.g., 14), an upper blade guard (e.g., 26) connected to the pivot arm, a motor (e.g., 16) attached to the upper blade guard, and a blade (e.g., 17) driven by the motor, the saw assembly being movable between an upper position where the blade does not engage the workpiece, and a lower position where the blade engages the workpiece; and

a fence assembly (e.g., 3) attached to the base, the fence assembly comprising a fixed fence fixedly (e.g., 48) attached to the base, the fixed fence contacting the workpiece, and an auxiliary fence (e.g., 37) disposed behind the fixed fence (i.e., when adjusted in such a manner), the auxiliary fence defining a second support plane substantially parallel to the first support plane and contacting the workpiece.

Sato lacks a movable fence. However, such movable fences are old and well known in the art and provide various well known benefits including configuring the fence assembly to correspond to a particular work piece and/or cutting operation. O'Banion et al. discloses one example of such a fence assembly configuration. It is noted that claims 6-9 are met by either Sato or Sato modified by the known prior art including O'Banion. Therefore, it would have been obvious to one having ordinary skill in the art to provide a movable fence on the fence assembly of Sato (e.g., by replacing fence 3 with a fence assembly such as that disclosed by O'Banion) for the well known benefits including those described above.

Response to Arguments

12. Applicant's arguments filed October 12, 2005 have been fully considered but they are not persuasive.

In the last paragraph on page 5 of the response, applicant argues that EP '300 and Sato both lack an auxiliary fence disposed behind the fixed fence and/or a movable fence that contacts the workpiece when the movable fence is moved. The Examiner respectfully disagrees with applicant's analysis. As described in the prior art rejections above, each of EP '300 and Sato (as modified) meets these limitations, particularly because the subject recitations describe the relationship between the claimed device and the workpiece and do not explicitly or implicitly define structure that is not disclosed by the prior art. Thus, the prior art devices as applied in the prior art rejections each can be manipulated or used on a selected workpiece configuration to meet the subject recitations and these limitations must be considered as functional recitations of intended use of the prior art devices. Therefore, it is respectfully submitted that the claims, particularly the added/argued limitations, do not patentably distinguish the claimed invention over the prior art and the prior art rejections must be maintained.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

Art Unit: 3724

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (571)272-4514. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Clark F. Dexter', is positioned above the printed name.

Clark F. Dexter
Primary Examiner
Art Unit 3724

cf
January 31, 2006